

REMARKS

Applicants have studied the Office Action dated July 16, 2004 and have made amendments to the claims to distinctly claim and particularly point out the subject matter which Applicants regard as the invention. No new matter has been added. It is submitted that the application, as amended, is in condition for allowance. By virtue of this amendment, claims 19, 25, 31 and 31-47 are pending. Claims 20-24 and 26-30 have been cancelled without prejudice or disclaimer. Claims 32-47 have been added. Reconsideration and allowance of the pending claims in view of the above amendments and the following remarks is respectfully requested.

In the Office Action, the Examiner:

- rejected claims 19-31 under 35 U.S.C. § 103(a) as being unpatentable over Ojha et al. (U.S. 6,598,026).

Overview of Current Invention

The present invention solves the problem of the prior art by allowing purchasers to manage the purchase of goods/services at multiple auction sites automatically. The present invention eliminates the need to have a centralized database listing items for auction from several entities. The present invention enables communication with each auction database where the interface to the auction database is different. The present invention accesses a plurality of auction sites through use a configuration profile. The configuration profile information contains the information necessary "to obtain access to at least two of the plurality of auction sites wherein each of the at least two auction sites has a separate auction database and a separate user interface thereto." After access to each of the auction databases is established, next a search is performed for an item or product to determine if it is available in each auction database. The present invention, without further interaction manages the bid process for through each unique interface for each auction site. The bid process is complete once "at least one of a (i) bid is accepted and (ii) time has expired for each of the at least one of the plurality of

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auction sites”.

In order to more particularly point out this feature of a configuration profile contains the information necessary “to obtain access to at least two of the plurality of auction sites wherein each of the at least two auction sites has a separate auction database and separate user interface thereto.” the following language has been added to the independent claims, i.e., claims 19, 25, and 31 as follows:

- Claims 19 and 31

receiving, via a user dialog, information necessary to register at a plurality of auction sites in order to obtain access to at least two of the plurality of auction sites wherein each of the at least two auction sites has a separate auction database and a separate user interface thereto;

receiving, via the user dialog, at least one product purchase request for at least one of a product and a service;

communicating with at least one of the plurality of auction sites using the information necessary to access each auction database through the corresponding separate user interface;

determining if the product is available through the at least one of the plurality of auction sites, and in response to the product being available and until at least one of a (i) bid is accepted and (ii) time has expired for each of the at least one of the plurality of auction sites, performing the following:

determining if a current bid from the auction site is below a limit maximum limit permitted, and in response to the current bid being below performing the following without further user interaction;

placing a new bid for the product with the auction site;

determining if the new bid has been accepted and in response to the new bid being accepted, canceling outstanding bids at other auction sites of the plurality of auction sites where the at least one of the product and service is available; and

determining if time has expired for on any new bids for a given auction site of the plurality of action sites and in response to the time expiring, canceling any outstanding bids for the given auction site.

• Claim 25

an profile configuration tool for receiving, via a user dialog, information necessary to register at a plurality of auction sites in order to obtain access to at least two of the plurality of auction sites wherein each of the at least two auction sites has a separate auction database and a separate user interface thereto;

an item selector for receiving, via the user dialog, at least one product purchase request for at least one of a product and a service;

an auction command interface for communicating with at least one of the plurality of auction sites using the information necessary to access each auction database through the corresponding separate user interface;

an auction result definition and verification unit for determining if the product is available through the at least one of the plurality of auction sites, and in response to the product being available and until at least one of a (i) bid is accepted and (ii) time has expired for each of the at least one of the plurality of auction sites, performing the following:

an auction bid controller for determining if a current bid from the auction site is below a maximum limit permitted, and in response to the current bid being below performing the following without further user interaction;

placing a new bid for the product with the auction site;

determining if the new bid has been accepted and in response to the new bid being accepted, canceling outstanding bids at other auction sites of the plurality of auction sites where the at least one of the product and service is available; and

determining if time has expired for on any new bid for a given auction site of the plurality of action sites and in response to the time expiring, canceling any outstanding bids for the given auction site.

Support for this amendment language is found in the specification of the present invention as originally filed at page 4, pages 11-13 and FIGs 1-3 as originally filed. No new matter has been added.

Rejection under 35 U.S.C. §103(a) over Ojha et al. (U.S. 6,598,026)

As noted above, the Examiner rejected claims 19-31 under 35 U.S.C. § 103(a) as being unpatentable over Ojha et al. (U.S. 6,598,026). Independent claims 19, 25, and 31 have been amended to clarify over Ojha. The system in Ojha is directed to a method and apparatus for brokering transactions from a plurality of sellers and a plurality of buyers. Each of the sellers and buyers have access to a proprietary database where all the items for the transaction are listed. See Ojha's Summary of the Invention, and more specifically col. 2, lines 47-62, col. 3, lines 59-60, and col. 9, lines 37-38. Accordingly, the method and system as taught by Ojha is a centralized database with separate logon's and privileges. In contrast, the present invention works with existing auction sites such as EBay and Yahoo where each auction site not only has a separate database for listing items and services in the auction at the given site, but also each auction site has a distinct user interface. The commands necessary to interface, bid and parse results from the Ebay auction site are not the same commands necessary to interface, bid and parse results from Yahoo's auction site.

The Examiner recites 35 U.S.C. §103. The Statute expressly requires that obviousness or non-obviousness be determined for the claimed subject matter "as a whole," and the key to proper determination of the differences between the prior art and the present invention is giving full recognition to the invention "as a whole." The Ojha reference simply does not suggest, teach or disclose the patentably distinct limitation of:

"receiving, via a user dialog, information necessary to register at a plurality of auction sites in order to obtain access to at least two of the plurality of auction sites wherein each of the at least two auction sites has a separate auction database and a separate user interface thereto."

These limitations taken "as a whole" in independent claims 19, 25, and 31 are not present in Ojha. Accordingly, independent claims 19, 25 and 31 distinguish over Ojha for at least this reason.

Moreover, the Federal Circuit has consistently held that when a §103 rejection is based

upon a modification of a reference that destroys the intent, purpose or function of the invention disclosed in the reference, such a proposed modification is not proper and the *prima facie* case of obviousness can not be properly made. See *In re Gordon*, 733 F.2d 900, 221 USPQ 1125 (Fed. Cir. 1984). Here the intent, purpose and function of Ojha is the use of a centralized proprietary database for listing all the items for all the sellers. In contrast, the intent and purpose of the present invention is using "information necessary to register at a plurality of auction sites in order to obtain access to at least two of the plurality of auction sites wherein each of the at least two auction sites has a separate auction database and a separate user interface thereto." The present invention allows access of a plurality of preexisting auction sites each with different listings and each with different interfaces. This combination, as suggested by the Examiner, destroys the intent and purpose of Ojha. Accordingly, independent claims 19, 25 and 31 distinguish over Ojha for at least this reason as well.

Continuing further, Ojha is silent on "information necessary to register at a plurality of auction sites in order to obtain access to at least two of the plurality of auction sites wherein each of the at least two auction sites has a separate auction database and a separate user interface thereto." Stated differently, Ojha does not teach an action profile for storing protocols and formats necessary to communicate with a given database at an auction site. Rather, the method and system of Ojha requires that all the sellers upload their information into one common proprietary database. Accordingly, independent claims 19, 25 and 31 distinguish over Ojha for at least this reason as well

Still further, when there is no suggestion or teaching in the prior art for providing targeted advertising to a consumer based on the consumer's location and profile the suggestion can not come from the Applicant's own specification. The Federal Circuit has repeatedly warned against using the Applicant's disclosure as a blueprint to reconstruct the claimed invention out of isolated teachings of the prior art. See MPEP §2143 and *Grain Processing Corp. v. American Maize-Products*, 840 F.2d 902, 907, 5 USPQ2d 1788 1792 (Fed. Cir. 1988) and *In re Fitch*, 972 F.2d 160, 12 USPQ2d 1780,

1783-84 (Fed. Cir. 1992). Ojha is silent on "determining if a current bid from the auction site is below a maximum limit permitted, and in response to the current bid being below performing the following without further user interaction." Accordingly, independent claims 19, 25, and 31 distinguish over Ojha for at least this reason as well

Further still, the bids as described by Ojha are a non-binding bid at col. 3, lines 21-23 and col. 19, lines 52-61. This means the auction in Ojha can not be completed without further user interaction. This is different than independent claims 19, 25 and 31 of the present invention where "in response to the current bid being below performing the following without further user interaction." Accordingly, independent claims 19, 25, and 31 distinguish over Ojha for at least this reason as well

In regard to newly added dependent claims 32-39 and 40-47, these claims further clarify the present invention ability to interface to a plurality of preexisting auction sites. Specifically dependent claims 32 and 40 recite an "auction profile database" for storing the information necessary to register at a plurality of auction sites. Claims 33-35 and 41-43 recited protocol information stored in the auction profile database to search each auction site database, place a bid at each auction site and cancel a bid at each auction site. Claims 36-38 and 44-46 recite that the protocol in the auction profile database is based on XML. Lastly, claims 39 and 40 recite that the auction sites are internet-based web auction sites. Accordingly, these dependent claims further distinguish over Ojha as well.

Independent claims 19, 25, and 31 have been amended to distinguish over Ojha. Claims 32-39 and 40-47 depend from independent claims 19, and 25, respectively. Since dependent claims contain all the limitations of the independent claims, claims 32-39 and 40-47 distinguish over Ojha as well. The Applicants respectfully submit that the Examiner's rejection has been overcome.

CONCLUSION

The remaining cited references have been reviewed and are not believed to affect the patentability of the claims as amended.

In this Response, Applicants have amended certain claims. In light of the Office Action, Applicants believe these amendments serve a useful clarification purpose, and are desirable for clarification purposes, independent of patentability. Accordingly, Applicants respectfully submit that the claim amendments do not limit the range of any permissible equivalents.

Applicants acknowledge the continuing duty of candor and good faith to disclosure of information known to be material to the examination of this application. In accordance with 37 CFR §1.56, all such information is dutifully made of record. The foreseeable equivalents of any territory surrendered by amendment are limited to the territory taught by the information of record. No other territory afforded by the doctrine of equivalents is knowingly surrendered and everything else is unforeseeable at the time of this amendment by Applicants and their attorneys.

Applicants respectfully submit that all of the grounds for rejection stated in the Examiner's Office Action have been overcome, and that all claims in the application are allowable. No new matter has been added. It is believed that the application is now in condition for allowance, which allowance is respectfully requested.

PLEASE CALL the undersigned if that would expedite the prosecution of this application.

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Respectfully submitted,

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